

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

TELECONFERENCE SYSTEMS LLC,

Plaintiff,

v.

METASWITCH NETWORKS CORP.,

Defendant.

Civil Action No. 6:18-cv-0234-JRG

FIRST AMENDED DOCKET CONTROL ORDER

It is hereby **ORDERED** that the following schedule of deadlines is in effect until further order of this Court:

Current Date	New Date	Deadline
December 9, 2019 Court designated date – not flexible without good cause - Motion Required		9:00 a.m. JURY SELECTION before Judge Rodney Gilstrap in Marshall, Texas
November 11, 2019 Court designated date – not flexible without good cause - Motion Required		9:00 a.m. PRETRIAL CONFERENCE before Judge Rodney Gilstrap in Marshall, Texas
November 6, 2019 Court designated date – not flexible without good cause - Motion Required		Notify Court of Agreements Reached During Meet and Confer The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i> . The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three business days before pretrial conference.

Current Date	New Date	Deadline
November 4, 2019 Court designated date – not flexible without good cause - Motion Required		File Joint Final Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, Responses to Motions <i>in Limine</i>, Updated Exhibit List, Updated Witness List, and Updated Deposition Designations
October 28, 2019 Court designated date – not flexible without good cause - Motion Required		File Notice of Request for Daily Transcript or Real Time Reporting If a daily transcript or real time reporting of court proceedings is requested for trial or hearings, the party or parties making said request shall file a notice with the Court and email the Court Reporter, Shelly Holmes at shelly_holmes@txed.uscourts.gov .
October 21, 2019		File Motions <i>in Limine</i> The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.
October 21, 2019		Serve Objections to Rebuttal Pretrial Disclosures
October 7, 2019		Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
September 30, 2019		Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
September 2, 2019 Court designated date – not flexible without good cause - Motion Required		File Motions to Strike Expert Testimony (including <i>Daubert</i> Motions) No motion to strike expert testimony (including <i>Daubert</i> motion) may be filed after this date without leave of the Court.
September 2, 2019 Court designated date – not flexible without good cause - Motion Required		File Dispositive Motions No Dispositive motion may be filed after this date without leave of the Court. <u>Motions shall comply with Local Rule CV-56 and Local Rule CV-7. Motions to extend page limits will only be granted in exceptional circumstances. Exceptional circumstances require more than agreement among the parties.</u>
September 2, 2019		Deadline to Complete Expert Discovery

Current Date	New Date	Deadline
August 12, 2019		Serve Disclosure for Rebuttal Expert Witnesses
July 22, 2019		Deadline to complete Fact Discovery and File Motions to Compel Discovery
July 22, 2019		Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof
July 15, 2019		Deadline to Complete Mediation The parties are responsible for ensuring that a mediation report is file no later than 5 days after the conclusion of mediation.
July 8, 2019		Comply with P.R. 3-7. (Opinion of Counsel Defenses)
June 17, 2019 Court designated date – not flexible without good cause - Motion Required		Claim Construction Hearing- 1:30 p.m. in Marshall, Texas before Judge Rodney Gilstrap
June 3, 2019 Court designated date – not flexible without good cause - Motion Required		Comply with P.R. 4-5(d) (Joint Claim Construction Chart)
May 27, 2019 Court designated date – not flexible without good cause - Motion Required		Comply with P.R. 4-5(c) (Reply Claim Construction Brief)
May 20, 2019		Comply with P.R. 4-5(b) (Responsive claim construction brief)
May 6, 2019		Comply with P.R. 4-5(a) (Opening Claim Construction Brief) and Submit Technical Tutorials (if any) Good cause must be shown to submit technical tutorials after the deadline to comply with P.R. 4-5(a).

Current Date	New Date	Deadline
May 6, 2019		Deadline to Substantially Complete Document Production and Exchange Privilege Logs Counsel are expected to make good faith efforts to produce all required documents as soon as they are available and not wait until the substantial completion deadline.
April 22, 2019		Comply with P.R. 4-4 (Deadline to Complete Claim Construction Discovery)
April 15, 2019		File Response to Amended Pleadings
April 1, 2019 Court designated date – not flexible without good cause - Motion Required		File Amended Pleadings It is not necessary to seek Leave of the Court to amend pleadings prior to this deadline unless the amendment seeks to assert additional patents.
March 25, 2019		Comply with P.R. 4-3 – (Joint Claim Construction Statement)
March 4, 2019		Comply with P.R. 4-2 – (Exchange of Preliminary Claim Constructions)
February 11, 2019		Comply with P.R. 4-1 – (Exchange Proposed Claim Terms)
November 30, 2018	December 7, 2018	Comply with P.R. 3-3 and 3-4(b) – (Invalidity Contentions)
November 30, 2018		Comply with P.R. 3-4(a)
October 2, 2018 Court designated date – not flexible without good cause - Motion Required		File Proposed Protective Order and Comply with Paragraphs 1 & 3 of the Discovery Order (Initial and Additional Disclosures) The Proposed Protective Order shall be filed as a separate motion with the caption indicating whether or not the proposed order is opposed in any part.
September 25, 2018 Court designated date – not flexible without good cause - Motion Required		File Proposed Docket Control Order and Proposed Discovery Order The Proposed Docket Control Order and Proposed Discovery Order shall be filed as separate motions with the caption indicating whether or not the proposed order is opposed in any part.

Current Date	New Date	Deadline
September 18, 2018		Join Additional Parties
September 14, 2018 Court designated date – not flexible without good cause – Motion Required		File Notice of Mediator
August 28, 2018		Comply with P.R. 3-1 and P.R. 3-2 – (Infringement Contentions)

(*) indicates a deadline that cannot be changed without showing good cause. Good cause is not shown merely by indicating that the parties agree that the deadline should be changed.

ADDITIONAL REQUIREMENTS

Notice of Mediator: The parties are to jointly file a notice that identifies the agreed upon mediator or indicates that no agreement was reached. If the parties do not reach an agreement, the Court will appoint a mediator. The parties should not file a list of mediators to be considered by the Court.

Summary Judgment Motions, Motions to Strike Expert Testimony, and Daubert Motions: For each motion, the moving party shall provide the Court with two (2) copies of the completed briefing (opening motion, response, reply, and if applicable, surreply), excluding exhibits, in D-three-ring binders, appropriately tabbed. All documents shall be single-sided and must include the CM/ECF header. For expert-related motions, complete digital copies of the relevant expert report(s) and accompanying exhibits shall submitted on a single flash drive. These copies shall be delivered as soon as briefing has completed.

Indefiniteness: In lieu of early motions for summary judgment, the parties are directed to include any arguments related to the issue of indefiniteness in their *Markman* briefing, subject to the local rules' normal page limits.

Motions for Continuance: The following excuses will not warrant a continuance nor justify a failure to comply with the discovery deadline:


- (a) The fact that there are motions for summary judgment or motions to dismiss pending;
- (b) The fact that one or more of the attorneys is set for trial in another court on the same day, unless the other setting was made prior to the date of this order or was made as a special provision for the parties in the other case;
- (c) The failure to complete discovery prior to trial, unless the parties can demonstrate that it was impossible to complete discovery despite their good faith effort to do so.

Amendments to the Docket Control Order (“DCO”): Any motion to alter any date on the DCO shall take the form of a motion to amend the DCO. The motion to amend the DCO shall include a proposed order that lists all of the remaining dates in one column (as above) and the proposed changes to each date in an additional adjacent column (if there is no change for a date the proposed date column should remain blank or indicate that it is unchanged). In other words, the DCO in the proposed order should be complete such that one can clearly see all the remaining deadlines and the changes, if any, to those deadlines, rather than needing to also refer to an earlier version of the DCO.

Proposed DCO: The Parties’ Proposed DCO should also follow the format described above under “Amendments to the Docket Control Order (‘DCO’).”

So Ordered this

Dec 3, 2018



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE